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EXAMINER

RHODE JR, ROBERT E

ART UNIT PAPER NUMBER

3625

DATE MAILED: 05/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/880,723

Applicant(s)

TARVYDAS ET AL.

Examiner

Rob Rhode

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3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-47 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-47 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_ 6) ☐ Other: \_\_\_\_

## **DETAILED ACTION**

### ***Specification***

The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

### ***Claim Objections***

Claim 10 is objected to because of the following informalities: claims are required to be written in a single sentence format and not multiple sentences.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Where applicant acts as his or her own lexicographer to specifically define a term of a claim contrary to its ordinary meaning, the written description must clearly redefine the claim term and set forth the uncommon definition so as to put one reasonably skilled in the art on notice that the applicant intended to so redefine that claim term. *Process Control Corp. v. HydReclaim Corp.*, 190 F.3d 1350, 1357, 52 USPQ2d 1029, 1033 (Fed. Cir. 1999). The term "reputation" in claims 4, 5 and 42 is used in the claims to mean

“public estimation of someone – character, name, report, repute or informal repute”, while the accepted U.S. meaning is “a credit check.” The term is indefinite because the specification does not clearly redefine the term.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

**Claim 47 is rejected under 35 U.S.C. 102(e) as being unpatentable over Musgrove (US 6,535,880 B1).**

Regarding claim 47, Musgrove teaches a computer readable medium having a computer executable components for providing a consistent shopping interface comprising: a search component for searching product information from at least one merchant (Col 5, lines 28 – 29); a user interface for displaying said product information (Figure 1); product order processing component for injecting at least one product order to said merchant associated with at least one product selected by a consumer without directing said consumer to said merchant's site (see at least Abstract, Col 2, lines 63 – 65, Col 3, lines 1 - 11 and Col 3, lines 40 – 53).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1, 2, 4 – 6, 9 – 27, 31, 33 – 36, 38 – 40 and 42 – 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoang (US 6,499,052 B1) in view of Ferguson (US 5,966,697).**

Regarding claim 1 and related claims 31 and 39, Hoang teaches a method of processing product orders from a consumer via a network to allow the consumer to order at least one product from at least one merchant using a consistent user interface, comprising: retrieving a universal shopping cart (See at least Abstract, Col 7, line 51 and Figures 1 and 4); receiving a product selection command from the consumer selecting at least one selected product (see at least Col 7, lines 51 – 54); and adding said at least one selected product to said universal shopping cart (Col 7, lines 51 – 54).

While it is implied by Hoang that a universal shopping cart will have a display capability as well as order injection, the Hoang reference does not specifically disclose and teach displaying product information from said at least one merchant; and injecting at least

one product order to at least one selected merchant associated with said at least one selected product in said universal shopping cart.

On the other hand, Ferguson does teach displaying product information from said at least one merchant (see at least Abstract and Figure 9A); and injecting at least one product order to at least one selected merchant associated with said at least one selected product in said universal shopping cart (see at least Figure 9E).

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to have provide the method and system of Hoang with the method and system of Ferguson to have enabled a method and system of processing product orders from a consumer via a network to allow the consumer to order at least one product from at least one merchant using a consistent user interface, comprising: retrieving a universal shopping cart; displaying product information from said at least one merchant; receiving a product selection command from the consumer selecting at least one selected product; adding said at least one selected product to said universal shopping cart; and injecting at least one product order to at least one selected merchant associated with said at least one selected product in said universal shopping cart – in order to have a complete functioning universal shopping cart. Hoang discloses a method and system for processing product orders from a consumer via a network to allow the consumer to order at least one product from at least one merchant using a consistent user interface, comprising: retrieving a universal shopping cart; receiving a

product selection command from the consumer selecting at least one selected product; and adding said at least one selected product to said universal shopping cart (Abstract and Col 7, lines 51 – 54). Fergerson discloses displaying product information from said at least one merchant; and injecting at least one product order to at least one selected merchant associated with said at least one selected product in said universal shopping cart (Abstract and Figures 9A and E). Therefore, one of ordinary skill in the art would have been motivated to combine Hoang with Fergerson to have provided the capability to online shop via a portal that integrated multiple products for the shopper. In this manner, the shopper will have a shopping cart, which will allow shopping across multiple online merchants and the shopping cart will interface will be consistent across all. In this regard, the customer satisfaction will be increased, which will increase the probability that the shopper will return for future online shopping sessions as well as recommending the site to others.

Regarding claim 2, Hoang teaches a method, wherein retrieving said universal shopping cart comprises determining whether an existing universal shopping cart is associated with the customer; and creating a new universal shopping cart when no existing universal shopping cart is associated with the customer (Col 3, lines 28 – 36 and Col 6, lines 60 – 65).

Regarding claim 9, Hoang teaches a method, wherein the process of injecting the product order is performed by determining said merchant to be an affiliated merchant;

and sending said product order to said affiliated merchant according to a predetermined protocol (Col 3, lines 66 – 67 and Col 4, lines 1 – 4).

Regarding claim 4 and related claims 5 and 42, Ferguson teaches a method, further comprising retrieving reputation information on the consumer from a reputation database and sending said reputation information to said at least one selected merchant (Col 9, 54 – 65 and Col 10, line 60). Please note that a reputation of most consumers is based on and checked regarding their credit rating via a credit bureau. This checking is done both online and offline and is widely accepted by shoppers. However, the step of requesting individual online merchant's to release information about their individual online shoppers is serious privacy issue and not one that merchant's will knowingly violate by revealing information on shoppers. Indeed, this would expose the online merchant's to extreme litigation risk that would be unacceptable due to privacy violations and not a prudent step to take for any online or offline merchant – for business reasons as well as legal and ethical reasons.

Regarding claim 6, Ferguson teaches a method, wherein said step of injecting at least one product order comprises authenticating an identity of said at least one selected merchant, and injecting at least one product order to said at least one merchant associated with said at least one selected product when the identity of said at least one merchant is authenticated (Figure 8).

Regarding claim 10 and related claim 12, Ferguson teaches a method, wherein the process of injecting said product order is performed by obtaining services from a merchant's site associated with said selected product; pattern matching said services; and creating instances of parameterized service for each state that contain essential details required to navigate said merchant's site and place said product order (Figures 2, 5, 7-8). A state in this instance is a set of methods and data that have input criteria (when the state starts) and exit criteria (all mandatory data has been injected). As above, a state may be a section of the form in the check out process.

Regarding claim 11, Ferguson teaches a method, wherein said services are obtained from said merchant's site by obtaining a copy of each page of said merchant's site relating to product orders using a plurality of accounts (Figure 2).

Regarding claim 13, Ferguson teaches a method, further comprising repeating the steps of displaying product information and adding at least one product selected by the customer to said universal shopping cart until a check out command is received from the consumer; and repeating the step of injecting at least one product order until all of the product orders have been processed (Figures 2 – 8).

Regarding claim 14, Ferguson teaches a method, further comprising generating at least one product key each of which uniquely identifies each of the selected products and a merchant associated with the selected product (Figure 2 – 8).

Regarding claim 15, Ferguson teaches a method, further comprising determining the minimum number of payments that are needed to pay for all of said at least one selected product (Figures 9F and 10).

Regarding claim 16, Ferguson teaches a method, further comprising determining at least one common payment method supported by said at least one selected merchant; and paying said at least one selected merchant according to said common payment methods (Col 3, lines 62 – 65).

regarding claim 22, Ferguson teaches a method, wherein said product information includes information on a plurality of products of the same product type sold by a plurality of merchants to allow the consumer to view product information and compare products of the same product type sold by different merchants using the consistent user interface (Abstract, Col 4, lines 34 – 39) and (23) further comprising assigning a product key to each of said at least one selected product to uniquely identify each of said at least one selected product and a merchant associated with said at least one selected product (Col 4, lines 34 – 39).

Regarding claim 24, Ferguson teaches a method, wherein said universal shopping cart is retrieved from a universal shopping cart database that includes consumer information and information on any previously saved product items (Col 9, lines 29 – 38).

Regarding claim 25, Ferguson teaches a method, further comprising obtaining an order confirmation from said merchant; and notifying the consumer of said order confirmation (Figure 7).

Regarding claim 26 and related claim 36, Ferguson teaches a method, further comprising determining shipping information from said merchant; and notifying the consumer of said shipping information (Figure 10E).

Regarding claim 17 and related claim 34, Ferguson teaches a method, further comprising receiving a product type criteria, and searching for information on products provided by said at least one merchant that match said product type criteria (Col 2, lines 33 – 34) and (18) wherein searching further comprises querying a product database having pre-stored product information (Col 3, lines 33 – 34 and Figures 1 and 2) and (19) wherein searching is conducted on the Internet (Figure 1) as well as (20) wherein searching further comprises scraping at least one merchant Web site to obtain product information (Col 2, lines 33 – 34) and (21) wherein scraping a merchant Web site comprises accessing said merchant Web site; searching for information on products in said merchant Web site that match the product type criteria; retrieving said information on products; and exiting said merchant Web site (Col 2, lines 33 – 54 and Col 16, lines 17 – 31). Please note that Ferguson does not specifically disclose, “scraping”. However, Ferguson does disclose searching for a product, obtaining the information as well as

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exiting. With regard to scraping, the process of obtaining information from a site on a network using "scraping" is old and well known. Thereby, one of ordinary skill in the art at the time of the invention would have been motivated to extend the method of Ferguson with a scraping step in order to access and retrieve the information.

Regarding claim 27, Ferguson does not specifically disclose wherein the consumer is an electronic agent of a human consumer is also known as shop bots or shopping bots. In that regard, the method of using shopping bots was old and well known at the time of the applicant's invention. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have enabled the method of Ferguson with shopping bots. In this manner, the customer satisfaction would have been increased due to the additional features to ease the applicant's shopping process.

Regarding claim 33, Ferguson teaches a method, further comprising selecting a common payment method that is common among a plurality of said selected merchants; and paying said selected merchants according to said common payment method (Col 9, lines 38 – 40).

Regarding claim 35, Ferguson teaches a method, further comprising providing billing information to the shopping site (Figure 9F).

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Regarding claim 38, Ferguson teaches a method, further comprising receiving at least one order confirmation from the shopping site (Figure 8).

Regarding apparatus claim 40, server claim 45 and computer readable medium claim 46, the cited references sections apply to these claims as well.

Regarding claim 43, Ferguson teaches an apparatus further comprising a merchant server for providing product information and receiving product orders injected by said processing unit (Abstract and Figure 1).

Regarding claim 44, Ferguson teaches an apparatus, wherein said merchant server comprises a network interface for interfacing the network; a memory for storing a purchase service program; and a processing unit that processes the product orders according to said purchase service program (Abstract and Figures 1 and 2).

**Claims 3 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Hoang and Ferguson, as applied to claim 1 above and further in view of Jacobs (US 6,334,114 B1).**

The combination of Hoang and Ferguson disclose and teach substantially the applicant's invention.

However, the combination does not specifically teach a method, further comprising authenticating an identity of the consumer, and exiting the product order process when said identity of the consumer cannot be authenticated.

On the other hand and regarding claim 3 and related claim 32, Jacobs teaches a method, further comprising authenticating an identity of the consumer, and exiting the product order process when said identity of the consumer cannot be authenticated (see at least Figure 6).

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to have provided the combination of Hoang and Ferguson with the method and system of Jacobs to have enabled a method and system, further comprising authenticating an identity of the consumer, and exiting the product order process when said identity of the consumer cannot be authenticated – in order to be assured of the shoppers identity. The combination of Hoang and Ferguson discloses a method and system of processing product orders from a consumer via a network to allow the consumer to order at least one product from at least one merchant using a consistent user interface, comprising: retrieving a universal shopping cart; displaying product information from said at least one merchant; receiving a product selection command from the consumer selecting at least one selected product; adding said at least one selected product to said universal shopping cart; and injecting at least one product order to at least one selected merchant associated with said at least one

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selected product in said universal shopping cart. Jacobs in turn discloses a method, further comprising authenticating an identity of the consumer, and exiting the product order process when said identity of the consumer cannot be authenticated (Figure 8).

Thereby, one of ordinary skill in the art at the time of the invention would have been motivated to extend the combination of Hoang and Ferguson to disclose discloses a method, further comprising authenticating an identity of the consumer, and exiting the product order process when said identity of the consumer cannot be authenticated.

Indeed, this will increase trust in the transaction by participating merchants as well as reduce the cost of business as a result of reducing fraudulent transactions.

**Claims 7, 8, 37 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Hoang and Ferguson, as applied to claims 1, 31 and 40 above and further in view of alexa.com screen captures via the WayBackMachine (archive.org) and dated Feb 29, 2000 (hereafter referred to as "Alexa").**

The combination of Hoang and Ferguson disclose and teach substantially the applicant's invention.

However, the combination does not specifically disclose and teach a method, further comprising retrieving reputation information on said at least one selected merchant from a reputation

On the other hand and regarding claim 7 and related claims 8, 37 and 41, Alexa teaches a method, further comprising retrieving reputation information on said at least one selected merchant from a reputation database (Page 2).

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to have provided the combination of Hoang and Ferguson with the method and system of Alexa to have enabled a method and system further comprising retrieving reputation information on said at least one selected merchant from a reputation database – in order to provide shoppers with relative ratings on each merchant. The combination of Hoang and Ferguson discloses a method and system of processing product orders from a consumer via a network to allow the consumer to order at least one product from at least one merchant using a consistent user interface, comprising: retrieving a universal shopping cart; displaying product information from said at least one merchant; receiving a product selection command from the consumer selecting at least one selected product; adding said at least one selected product to said universal shopping cart; and injecting at least one product order to at least one selected merchant associated with said at least one selected product in said universal shopping cart. Alexa in turn discloses a method, further comprising retrieving reputation information on said at least one selected merchant from a reputation database (Page 2). Therefore, one of ordinary skill in the art would have been motivated to extend the combination of Hoang and Ferguson with Alexa to disclose a method comprising retrieving reputation information on said at least one selected merchant from a

reputation database. In this manner, the shoppers satisfaction will be increased due to a more complete review of a merchant and thereby increase the probability that they will recommend the site to others.

**Claims 28 – 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Hoang and Ferguson, as applied to claim 1 above and further in view of Musgrove (US 6,535,880 B1).**

The combination of Hoang and Ferguson disclose and teach substantially the applicant's invention.

However, the combination does not specifically disclose and teach a method, further comprising providing a network presence to allow the consumer to select and order said at least one product without leaving said network presence and wherein said network presence is an Internet Web site as well as wherein said network presence is a proprietary shopping site configured to receive product browsing, selection, and ordering commands from the consumer via the network.

On the other hand and regarding claim 28, Musgrove teaches a method, further comprising providing a network presence to allow the consumer to select and order said at least one product without leaving said network presence (see at least Abstract and Figure 2) and (29) wherein said network presence is an Internet Web site (Figure 1) as

well as (30) wherein said network presence is a proprietary shopping site configured to receive product browsing, selection, and ordering commands from the consumer via the network (Abstract and Figures 1, 2 and 4).

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to have provided the combination of Hoang and Ferguson with the method and system of Musgrove to have enabled a method and system further comprising providing a network presence to allow the consumer to select and order said at least one product without leaving said network presence and wherein said network presence is an Internet Web site as well as wherein said network presence is a proprietary shopping site configured to receive product browsing, selection, and ordering commands from the consumer via the network – in order provide a capability that does not require the shopper to navigate back and forth between sites. The combination of Hoang and Ferguson discloses a method and system of processing product orders from a consumer via a network to allow the consumer to order at least one product from at least one merchant using a consistent user interface, comprising: retrieving a universal shopping cart; displaying product information from said at least one merchant; receiving a product selection command from the consumer selecting at least one selected product; adding said at least one selected product to said universal shopping cart; and injecting at least one product order to at least one selected merchant associated with said at least one selected product in said universal shopping cart. Musgrove in turn discloses a method for providing a network presence to allow the

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consumer to select and order said at least one product without leaving said network presence and wherein said network presence is an Internet Web site as well as wherein said network presence is a proprietary shopping site configured to receive product browsing, selection, and ordering commands from the consumer via the network (Abstract and Figures 1, 2 and 4). In this regard, the shopper is provided a one stop shopping experience, which reduces confusion as well as increase ease of use. As a result, the shopper's satisfaction with the site will increase, which will increase the probability that they will return in the future for additional shopping.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Rob Rhode** whose telephone number is **(703) 305-8230**. The examiner can normally be reached Monday thru Friday 7:00 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Jeff Smith** can be reached on **(703) 308-3588**.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the **Receptionist** whose telephone number is **(703) 308-1113**.

Any response to this action should be mailed to:

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Drive, Arlington, VA, 7<sup>th</sup> floor receptionist.

RER

  
Jeffrey A. Smith  
Primary Examiner